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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/591,882	09/06/2006	Uwe Skultety-Betz	10191/4519	6955
26646 7590 06/02/2008 KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004				
EXAMINER				
WHITTINGTON, KENNETH				
ART UNIT		PAPER NUMBER		
2862				
MAIL DATE		DELIVERY MODE		
06/02/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/591,882

Applicant(s)

SKULTETY-BETZ, UWE

Examiner

KENNETH J. WHITTINGTON

Art Unit

2862

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-26 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 14-26 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 September 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/CIS)
- Paper No(s)/Mail Date 9/6/06

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date: ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 14-16, 18-20, 23 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Garrett (US3662255). Regarding claim 14, Garrett discloses a hand-held locating device for detecting an object enclosed in a medium, comprising:

- a housing having an opening penetrating therethrough (See Garrett FIGS. 1 and 9, item 32 or 32a or 50a);
- at least one sensor system positioned in the housing (See FIGS. 1 and 9, item 45 or 45a); and
- at least one light source provided in the measuring device configured to illuminate the opening (See FIG. 9, items 200).

Regarding claim 15, Garrett discloses the sensor system has at least one inductive sensor for locating purposes (See FIGS. 1-9, item 45 or 45a).

Regarding claim 16, Garrett discloses the inductive sensor includes a coil, the opening being oriented concentrically in

relation to the coil of the inductive sensor (See FIGS. 1-9, note coil 45 or 45a in relation to housing with opening 32 or 32a).

Regarding claim 18, Garrett discloses the opening is formed by a sleeve, the light source configured to illuminate the sleeve (See FIG. 9, note item 50a).

Regarding claim 19, Garrett discloses the sleeve is made of an at least partially transparent plastic (See FIGS. 1-9, item 50 or 50a and see col. 3, lines 31-38).

Regarding claim 20, Garrett discloses the sleeve is configured to scatter light diffusively (See FIGS. 1-9, item 50a, note material is translucent).

Regarding claim 23, Garrett discloses the opening is variably illuminated as a function of a measuring signal of at least one sensor (See col. 7, lines 11-17).

Regarding claim 24, Garrett discloses the light source includes a plurality of light sources (See FIG. 9, note plurality of bulbs 200).

Claims 14 and 26 are rejected under 35 U.S.C. 102(e) as being anticipated by Engelberg et al. (US2006/0062472), hereinafter Engelberg. Regarding claim 1, Engelberg discloses a hand-held locating device for detecting an object enclosed in a

medium (See Engelberg paragraphs 0002-0011, note a vehicle having door handles and steering wheel is hand held and the invention locates objects or people within the medium inside the vehicle), comprising:

- a housing having an opening penetrating therethrough (See paragraph 0012, note vehicle as housing with compartment as opening);

- at least one sensor system positioned in the housing (See paragraphs 0012-0013, note vehicle has temperature sensor within housing); and

- at least one light source provided in the measuring device configured to illuminate the opening (See paragraph 0013, note structured lighting can be used to illuminate vehicle for located objects/passengers).

Regarding claim 26, Engelberg discloses a sealing device which allows the opening to be sealed as a function of a measuring signal of at least one sensor (See paragraphs 0012-0013, note windows, i.e., sealing devices, can be closed or opened depending on the temperature readings inside the vehicle compartment).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Garrett in view of Yamashita et al. (US4859931), hereinafter Yamashita. Regarding this claim, Garrett teaches the use of an inductive sensor arrangement, but not including a capacitive sensor. Yamashita teaches using both an inductive sensor and a capacitive sensor in the same device (See Yamashita col. 1, lines 33-65). It would have been obvious at the time the invention was made to incorporate a capacitive sensor into the metal detector of Garrett. One having ordinary skill in the art would do so to locate both metal and non-metallic objects (See Yamashita col. 1, lines 9-13).

Claims 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Garrett in view of Audet (US6266006). Regarding these claims, Garrett teaches of the features of claim

14 as discussed above, but not a color coded light signal. Audet teaches an inductive metal/object detector having a light source that is illuminated with a color-coded light signal in at least two different colors (See Audet col. 3, lines 23-35). It would have been obvious at the time the invention was made to incorporate the color coded signal of the detector in Audet in the metal detector of Garrett. One having ordinary skill in the art would do so to provide a definite indication of the presence of an object (See Audet col. 3, lines 23-35).

Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Garrett in view of Steber et al. (US6844713), hereinafter Steber. Regarding this claim, Garrett teaches the use of neon lamps for the light source, but not an LED. Steber teaches a stud finder using LEDs as light sources behind a translucent material (See Steber FIG. 12, note LEDs D2-D5 behind translucent windows 113). It would have been obvious at the time the invention was made to incorporate LEDs in lieu of the neon lamps in the apparatus of Garrett. One having ordinary skill in the art would do so because either can be used to provide a light signal through translucent material as shown in these references.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KENNETH J. WHITTINGTON whose telephone number is (571)272-2264. The examiner can normally be reached on Monday-Friday, 7:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Assouad can be reached on (571) 272-2210. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

/Kenneth J Whittington/
Primary Examiner, Art Unit 2862